

CHAPTER 6

OVERPAYMENTS

IN GENERAL

This chapter deals with state law provisions that pertain to identifying, establishing, and collecting UI benefit overpayments. All states' laws have provisions addressing these matters. A state's law generally differs in the treatment of overpayments in which the individual is not at fault and overpayments in which the individual has committed fraud or willful misrepresentation, or concealed material facts. In addition, the state laws contain provisions for fines and imprisonment for willfully or intentionally misrepresenting or concealing facts which are material to a determination concerning the individual's entitlement to benefits.

NONFRAUD PROVISIONS

WAIVERS—Some states provide that, if the overpayment is without fault on the individual's part, the individual is not liable to repay the amount overpaid. The following table lists the states that waive certain nonfraud overpayments.

TABLE 6-1: WAIVER OF NONFRAUD OVERPAYMENTS	
State	Additional Information
AK	If timely request, received benefits in good faith, and repayment would be against equity and good conscience.
AZ	If not the fault of the individual and repayment or reduction would either defeat the purpose of the law or be against equity and good conscience.
AL	If not the fault of the individual, except if overpayment results from a back pay award or from Java decisions. When OP results from benefit payments based on exempt or non-covered wages erroneously reported by an employer.
AR	If not the fault of the individual and repayment would be against equity and good conscience.
CA	If nonfault OP. If individual has change of position and extraordinary hardship.
CO	Depending upon financial condition, future earnings potential, whether individual detrimentally changed position in reliance on OP. If individual relinquished rights to other governmental benefits to which he/she would have been entitled.
CT	If individual died, can't secure full time job because of health, overpaid by retrospective application of legislation change, appeal reversal and didn't receive adequate notice to repay benefits, reliance upon the receipt of benefits, admin error, or OP equal or greater than 2 x WBA at time OP made and annualized family income within last 6 months is \leq 150% poverty level.
DC	If nonfault OP and recovery of OP would place an extraordinary financial hardship on individual.
FL	If OP is result of ER failure to respond timely to claim notice.
GA	If recovery would cause direct impact or loss of ability to obtain minimal necessities of food, medicine, and shelter. (If recommendation from Hearing Officer, Court findings, and by virtue of discharge in bankruptcy.)
HI	If nonfault OP and recovery would be against equity and good conscience.
ID	If departmental error or if employer misreported wages and individual could not have been reasonably expected to have recognized error.
IL	If nonfault OP on individual's part, waiver is requested by individual, and if such recoupment would be against equity and good conscience. Waiver may be denied with respect to any subsequent week if, in that week, the facts and circumstances upon which waiver was based no longer exist.

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TABLE 6-1: WAIVER OF NONFRAUD OVERPAYMENTS	
State	Additional Information
IN	The benefits were the result of payments made during the pendency of an appeal before an administrative law judge or the review board under which the individual is determined to be ineligible for benefits or because of an error by the employer or the department, and repayment would cause economic hardship to the individual. This applies only to claims filed against non-reimbursable employers.
IA	Benefits paid not as the result of fraud or willful misrepresentation, if the employer did not participate in the initial determination and overpayment occurred as a result of a subsequent reversal on appeal.
KS	Extreme hardship or fault of the agency.
LA	If nonfault OP and recovery would be against equity and good conscience.
ME	If nonfault OP and inability to pay, upon Commission approval.
MD	If timely request; nonfault OP; result of agency error, employer error, agency redetermination, or appeal; individual must lack ability to repay; household income must be below Federal minimum poverty level for family size and area of residence, and OP can't be over 1 year old unless pending appeal outcome.
MA	If nonfault OP and an economic hardship exists.
MI	If not the fault of the individual and repayment would be against equity and good conscience; and any interest shall be waived. OP result of administrative/clerical error and individual is unable to pay due to indigence or financial hardship.
MN	If an unemployment law judge's order allows benefits because of a quit or discharge, and the decision is reversed by the Minnesota Court of Appeals or the Supreme Court of Minnesota.
MT	Agency error.
NV	Agency error or disability precluding future employment during collection period.
NH	If nonfault OP.
NJ	If nonfault and individual is deceased, permanently disabled and no longer able to work, or the recovery of the OP would be patently contrary to principles of equity.
NC	Depending on individual's degree of fault; if against equity and good conscience.
ND	If nonfault OP and extreme financial hardship.
OH	If typographical or clerical error in decision, or error in employer's report.
OR	If recovery is against equity and good conscience. Individual's financial ability to repay the OP is considered.
RI	If nonfault OP.
SC	If agency or employer error. Also depends on individual's ability to repay.
SD	If nonfault OP, inability to repay (AWW for prior 12 months, liquid or readily convertible assets, spousal income, and financial emergencies).
TN	If nonfault OP.
UT	If nonfault OP. Individual member of household with income \leq 70% Federal Lower Living Standard Income Level.
VT	OPs not resulting from non-disclosure or misrepresentation by individual will be waived after fact finding has been conducted.
VI	If nonfault OP.
WA	If against equity and good conscience for Department to require repayment of full amount; if repayment would deprive individual of income required to provide necessities such as food, shelter, medicine, utilities, and related expenses.
WI	TRA OP when individual's income is below Federal poverty guidelines.
WY	If nonfault OP and OP was caused by agency error or individual has extreme financial hardship.

RECOVERY PROVISIONS—All state laws provide for recovering benefits paid to individuals who later are found not to be entitled to them. In addition to direct repayment, states utilize several tools to recoup these funds. States may, at the discretion of the agency, recover overpayments by deducting from future benefits payable (benefit offset). In December 2010, states acquired the ability to recover overpayments from an individual's Federal income tax refund through the Treasury Offset Program. They also may offset overpayments with state tax refunds due to the individual, or by the interception of lottery winnings, or they can compel repayment by pursuing civil action in state court. Finally, some states may assess interest and penalties on outstanding overpayment balances. The following table provides information about how states recover nonfraud overpayments.

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TABLE 6-2: RECOVERY OF NONFRAUD OVERPAYMENTS					
State	Benefit Offset		Offset with State Tax Refunds ¹	Civil Action Permitted ²	Interest Assessed
	Reduction in WBA	Number of Years Limited			
AL	100%	No	Yes	Yes	No
AK	100%	No	No	No	No
AZ	50% - 100%	No	Yes	No	10% per year from month after OP established
AR	100%	4 years from date of final determination	Yes	Yes	10% annually once final OP has force and effect of judgment of circuit court
CA	25%	6 years from date notice mailed	Yes	No ⁴	No
CO	25%	No	No	Yes	No
CT	50%; if WBA < \$100, then 25%	No; may write off as uncollectible after 8 years	No	Yes	No
DE	50%	5 years from end of BY	Yes	Yes	No
DC	100%	No	Yes	Yes	No
FL	100%	3 years from date OP is established	No	Yes	No, unless and until a civil judgment is entered
GA	50%	4 years from date OP is established	Yes	Yes	No
HI	100%	2 years from date of mailing notice of redetermination or final appeal decision. After, may offset % agreed to by individual.	No	Yes	No
ID	100%	5 years from date of final determination	Yes	Yes	No
IL	25%	5 years from date OP decision issued	Yes	Yes	No
IN	100%; if agency error, then 50%	3 years from BYB of claim	Yes	Yes	No
IA	100%	10 years from date of last activity	Yes	No	No
KS	100%	No	Yes	Yes	1.5% per month if 2 years old
KY	25%	5 years from last day of BY	Yes	Yes	No
LA ³	100%	No	Yes	Yes	No
ME	10% of 1 st \$100 WBA; 50% of rest	No	Yes	No	1% per month starting 1 year after decision is set up in system
MD	100%	No	Yes	Yes	No
MA	100%; 50% if nonfault and individual requests	No	Yes	Yes ⁴	No
MI	Up to 20%	3 years from date of payment	Yes	Yes	Yes
MN	50%	6 years from date OP is determined	Yes	Yes	No
MS	100%	5 years from last day of week overpaid	No	Yes	1% per month on principal balance after 1 st full month OP established
MO	100%	No; may write off as uncollectible after 5 years of no activity	Yes	Yes	No
MT	50%, higher if individual permits	5 years; must file lien against individual's real and personal property to extend to 10 years	Yes	No	Yes
NE	Any amount per week and any amount up to MBA	3 years from end of BYE on which overpaid weeks were paid	Yes	Yes	No
NV	50%	5 years from date OP established	No	No	No

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TABLE 6-2: RECOVERY OF NONFRAUD OVERPAYMENTS					
State	Benefit Offset		Offset with State Tax Refunds ¹	Civil Action Permitted ²	Interest Assessed
	Reduction in WBA	Number of Years Limited			
NH	1% - 10%	10 years from date OP decision is final	No	Yes	1% per month on principal balance from 1 st day of month after decision if not paid within 60 days
NJ	100% or 50%	No	Yes	Yes	2% annually 6 months after debt established if no formal payment agreement
NM	100%; 50% or 75% if request approved	No	Yes	Yes	No
NY	50%	No	No	No	No
NC	50%	No	Yes	Yes ⁴	No
ND	Minimum 50%	No	Yes	Yes	18% starting 180 days after establishment of OP or 180 days from date of final appeal determination
OH	100%	3 years from date decision is final	Yes	No	No
OK	100%	No; except for administrative error, 1 year from expiration of BY current at time OP established	Yes; administrative error	Yes; administrative error	1% per month starting date OP determined
OR	100%	1 year from week decision became final for nonfault OPs. No time limit for fault OPs	Yes (if fault OP)	Yes	If fault, 1% per month from 1 st day of month following 60 days after final decision
PA	33⅓% (nonfault); 100% (fault)	4 (nonfault), 7 (fault) years from date of application for benefits	No	Yes	Computed annually based on the IRS rate
PR	50%	5 years from date OP established	No	No	No
RI	100%	No	Yes	Yes	No
SC	100%	No	Yes	No	No
SD	100%	No	No	Yes	12% per year upon establishment of fault OP or 6 months after establishment of nonfault OP
TN	100%	No	No	Yes	No
TX	100%	No limit for OP absorptions on subsequent BYs	No	Yes	1% per month from 30 days after served (when becomes judgment)
UT	50% (nonfault); 100% (fault)	If nonfault, 3 years from date decision is final. If fault, 8 years from effective date of judgment lien	Yes (fault only)	Yes (fault only)	No, unless it goes to judgment
VT	100%	5 years from determination date	Yes	Yes	No
VA	100%; 50% if administrative error	No	Yes	Yes	No
VI	Depends on amount and ability of individual	2 years from date OP was established	Yes	Yes	No
WA	50%	No	No	Yes	1% per month (simple interest) after ≥ 2 minimum monthly payments are delinquent
WV	100%	5 years from last day of week overpaid	No	No	No
WI	100%	No	Yes	Yes	No

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TABLE 6-2: RECOVERY OF NONFRAUD OVERPAYMENTS					
State	Benefit Offset		Offset with State Tax Refunds ¹	Civil Action Permitted ²	Interest Assessed
	Reduction in WBA	Number of Years Limited			
WY	100%	First 5 years from effective date of claim resulting in OP	No	Yes	No

OP: Overpayment

¹ In AZ, DE, DC, MD, MN, NJ, ND, OR, VT, VA, VI, and WI provision found in non-UI law (all other states' provision found in UI law).

² Provision found in UI law.

³ A penalty of \$20 or 25% of outstanding balance is imposed.

⁴ In CA regarding OP to an elected official, in addition to the civil action, summary judgment proceedings may be initiated if the claim was based solely on income received as an elected official. In MA and NC state does not pursue civil action because of policy.

FRAUD PROVISIONS

RECOVERY PROVISIONS, FINES, & CRIMINAL PENALTIES—For fraud, including willful misrepresentation generally and concealment of facts, states utilize the same methods to recover overpayments as they do for nonfraud overpayments. However, most states can pursue criminal action in court, which can lead to monetary assessments and prison sentences. Further, states can administratively assess additional monetary fines or penalties. Pub. L. 112-40 enacted October 21, 2011, imposed a mandatory penalty assessment for fraudulent claims. States are now required to assess a penalty of not less than 15 percent of the amount of the erroneous payment on claimants committing fraud in connection with state and/or federal unemployment compensation programs. The penalties are mandatory for any fraudulent payments established after October 21, 2013, and the penalty assessments must be immediately deposited into the state's account in the unemployment trust fund and used for the payment of unemployment compensation.

Although UI benefit fraud typically involves an individual's attempt to obtain or increase benefits, it also includes employers who attempt to prevent or reduce benefits to eligible individuals and employers who abet an individual's attempt to fraudulently claim benefits. The following table reflects state law provisions on how states treat benefit fraud. A state's policy may be different (e.g. it may not, in fact, pursue criminal prosecution) and can change.

TABLE 6-3: TREATMENT OF FRAUD								
State	Recovery of OPs Through Offset			Monetary Assessments			Max Prison Time Imposed When Fraud Committed	
	Benefits		State Tax Refunds	Interest Charged	Fines or Penalties on Claimant	Fines or Penalties on Employer	By Claimant	By Employer
	Reduction in WBA	Number of Years Limited						
AL	100%	6 years from date OP is final	Yes	2% per month	4 x WBA to maximum benefit amount; 15% penalty*	X ¹	2 to 20 years under Class B felony charges	1 year
AK	100%	No	No	No	50% of each fraud OP	X ¹	5 years	X ¹
AZ	100%	No	Yes ²	10% per year	X ¹	\$2,500	Depends on claimant's record	6 months
AR	100%	No	Yes	10% per year	10% of OP	\$20 – \$200	60 days	60 days
CA	100%	6 years from mailing	Yes	7% until summary judgment filed. 10% until paid in full	30% of OP*	\$20,000	1 year minimum	1 year minimum
CO	100%	No	No	No	\$25 – \$1,000 fine; 50% of OP penalty	\$25 – \$1,000 ³	6 months	6 months

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TABLE 6-3: TREATMENT OF FRAUD

State	Recovery of OPs Through Offset			Monetary Assessments			Max Prison Time Imposed When Fraud Committed	
	Benefits		State Tax Refunds	Interest Charged	Fines or Penalties on Claimant	Fines or Penalties on Employer	By Claimant	By Employer
	Reduction in WBA	Number of Years Limited						
CT	100%	8 years	Yes	1% per month	X ¹	X ¹	1 year minimum	1 year minimum
DE	100%	5 years from end of benefit year	Yes ²	18% per year	\$20 – \$50	\$20 – \$200	60 days	60 days
DC	100%	No	Yes ²	No	\$200	\$1,000	60 days	6 months
FL	100%	5 years from date established	No	No, unless and until a civil judgment is entered	X ¹	\$5,000	5 years	5 years
GA	50%	4 years from date established	Yes	1% per month	10% on principal	Up to \$1,000 for basic fraud; at least \$1,000 for multiple counts	12 months per count	X ¹
HI	100%	2 years from mailing or final appeal decision. After, if claimant agrees (percentage up to claimant)	No	No	X ²	\$20 – \$200	5 years	60 days
ID	100%	8 years from final determination date	Yes ²	Yes	25% 1 st instance; 50% 2 nd instance; 100% 3 rd instance and subsequent ²	\$20 – \$200 and 10 x WBA	X ¹	X ¹
IL	100%	No	Yes ²	No, unless suit filed and judgment entered; then 9% per year	Up to \$500 fine; 15% penalty*	Up to \$500	180 days	180 days
IN	100%	6 years from beginning of BY	Yes	0.05% per month	25% 1 st instance; 50% 2 nd instance; 100% 3 rd instance and subsequent	X ⁴	6 – 36 months or 2 – 8 years	6 – 36 months or 2 – 8 years
IA	100%	10 years from date of last activity	Yes	No	15%*	50% of tax owed	10 years	N/A
KS	100%	No	Yes	1.5% per month	X ¹	\$20 – \$200	60 days	60 days
KY	100%	10 years from end of applicable BY	Yes	1.5% per month	\$10 – \$50	\$50 1 st offense, \$100 2 nd offense	1 year	1 – 5 years
LA	100%	No	Yes	No	Penalty is greater of \$20 or 25% of OP balance*	\$50 – \$1,000	10 years	30 – 90 days
ME	100%	No	Yes	1% per month	50% 1 st incident, 75% 2 nd incident, 100% other incidents	X ¹	X ¹	X ¹
MD	100%	No	Yes ²	1.5% per month	Up to \$1,000	Up to \$1,000	90 days	90 days
MA	100%	No	Yes	1% per month until total interest = 50% of OP	Fine of \$1,000 - \$10,000	\$2,500 - \$10,000	6 months to 5 years	1 year

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TABLE 6-3: TREATMENT OF FRAUD

State	Recovery of OPs Through Offset			Monetary Assessments			Max Prison Time Imposed When Fraud Committed	
	Benefits		State Tax Refunds	Interest Charged	Fines or Penalties on Claimant	Fines or Penalties on Employer	By Claimant	By Employer
	Reduction in WBA	Number of Years Limited						
MI	100%	6 years from OP	Yes	Yes	Up to 4 x OP amount	Up to 4 x amount involved	5 years	10 years
MN	N/A ⁵	15	Yes ²	1½% per month	40% of OP*	X ¹	20 years	20 years
MS	100%	5 years from last week overpaid	No	1% per month	\$100 – \$500 fine; 20% penalty*	\$100 – \$1,000	30 days for each fraudulent week	6 months
MO	100%	No; may write off as uncollectible after 5 years of no activity	Yes	No	25% – 100% of fraudulent amount	25% – 100% of fraudulent amount	6 months for each violation	6 months for each violation
MT	100%	5 years. 10 years if file lien	Yes	Yes	Penalty: 100% principal for each offense within 5 years of most recent OP	\$50 – \$500	Depends on recommendation of district attorney or employer	30 days for each false statement
NE	100%	3 years from end of applicable benefit year	Yes	No	Up to \$500 fine; 15% penalty*	Up to \$500	90 days for each count	90 days
NV	100%	5 years from date OP established	No	Civil judgments only (6% per year)	25% or 50% ⁶	\$2,000	10 years	10 years
NH	1% - 10%	10 years from date OP decision is final	No	1% per month	Up to \$4,000 fine; 15% penalty*	Up to \$100,000	15 years	15 years
NJ	100%	No	Yes ²	5% for CY 2009	Greater of \$20 per week or 25% of total OP	\$100 to \$1,000 per offense	Decided by court	90 days
NM	100%	No	Yes	No	Up to \$100	Up to \$100	30 days	30 days
NY	100%	No	Yes ²	9% per year (civil action only)	\$500	\$500	1 year	1 year
NC	100%	No	Yes	No	Up to \$200 fine; 15% penalty* ¹	Up to \$200	2 years	2 years
ND	100%	No	Yes ²	18% per year	\$10,000 fine	\$1,000 fine	10 years	30 days
OH	100%	6 years from date OP is final	Yes	14% per year	Up to \$1,000	Up to \$1,000	6 months	6 months
OK	100%	No	Yes	1% per month	Up to \$500 fine each week after conviction; 25% penalty*	\$50 – \$500	6 months	90 days
OR	100%	No	Yes ²	1% per month	15% of OP	\$100 – \$500	X ¹	90 days
PA	100%	10 years from date applied for benefits	No	Computed annually based on IRS rate	\$100 – \$1,000	\$100 – \$1,500 per offense	30 days per week illegally claimed	30 days per offense
PR	100%	5 years from date established	No	No	X ¹	\$1,000	X ¹	1 year

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TABLE 6-3: TREATMENT OF FRAUD

State	Recovery of OPs Through Offset			Monetary Assessments			Max Prison Time Imposed When Fraud Committed	
	Benefits		State Tax Refunds	Interest Charged	Fines or Penalties on Claimant	Fines or Penalties on Employer	By Claimant	By Employer
	Reduction in WBA	Number of Years Limited						
RI	100%	No	Yes	1.5% per month	Greater of \$1,000 or double value of fraud	Greater of \$1,000 or double value of fraud	1 year	1 year
SC	100%	No	Yes	No	\$20 – \$100	\$20 – \$100	30 days for each offense or week claimed	30 days
SD	100%	No	No	12% per year	\$1,000 fine; 15% penalty*	\$1,000 fine	1 or 2 years	1 or 2 years
TN	100%	No	No	1.5% per month	X ¹ ; 15%* plus additional 7.5% penalty	X ¹	1 year (minimum)	1 year (minimum)
TX	100%	No	No	1% per month	\$4,000	\$4,000	Depends on whether prosecuted as misdemeanor or felony	X ¹
UT	N/A	N/A	Yes ²	No, unless it goes to judgment	The fines or penalties on claimants is 100% of OP (civil) and up to \$10,000 (criminal)	Up to \$20,000	15 years	15 years
VT	100%	5 years from determination date	Yes ²	No	Up to \$50 ⁷	Up to \$50	30 days	30 days
VA	N/A ⁵	N/A ⁵	Yes ²	No	Up to \$1,000	Up to \$1,000	1 year	1 year
VI	Depends on amount and ability of claimant	2 years from date OP is final	No	No	\$50 – \$200	\$50 – \$200	60 days	60 days
WA	100%	No	No	1% per month	\$20 – \$250	\$20 – \$250	90 days	90 days
WV	100%	10 years from last week overpaid	No	No	\$100 - \$1,000 fine; 20% penalty*	\$20 – \$200	30 days	30 days
WI	100%	No	Yes ²	No	2 x WBA 1 st time, 4 x WBA 2 nd time, 8 x WBA 3 rd time and subsequent; \$100 - \$500 fine; 15% penalty*	\$500 – \$1,500	90 days	90 days
WY	100%	No	No	No	5% when OP established and every 6 months thereafter until paid	\$750	5 years	5 years

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TABLE 6-3: TREATMENT OF FRAUD

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State	Recovery of OPs Through Offset			Monetary Assessments			Max Prison Time Imposed When Fraud Committed	
	Benefits		State Tax Refunds	Interest Charged	Fines or Penalties on Claimant	Fines or Penalties on Employer	By Claimant	By Employer
	Reduction in WBA	Number of Years Limited						
*These states have enacted the mandatory 15% penalty assessment of the OP due to fraud on claimants as required under Pub. L. 112-40.								
N/A: Not applicable								
GENERAL NOTES: All states pursue civil action to recover fraud overpayments except <u>AK</u> , <u>MA</u> , <u>NE</u> , <u>NC</u> , <u>PR</u> , <u>SC</u> , and <u>VA</u> . All states impose monetary assessments and prison time on employers who fraudulently act to prevent or reduce a claimant’s benefits. In addition, some states impose assessments/prison time for abetting a claimant’s fraudulent receipt of benefits. Where these penalties differ, the higher is shown.								
¹ In <u>AK</u> , <u>AL</u> , <u>AZ</u> , <u>CT</u> , <u>FL</u> , <u>GA</u> , <u>ID</u> , <u>KS</u> , <u>ME</u> , <u>MN</u> , <u>NC</u> , <u>OR</u> , <u>PR</u> , <u>TN</u> , <u>TX</u> , and <u>WV</u> penalty assessed under misdemeanor or felony statutes. Also for <u>AL</u> , in lieu of fines, if found guilty required to pay restitution in at least the amount of benefits fraudulently obtained.								
² In <u>AZ</u> , <u>DE</u> , <u>DC</u> , <u>HI</u> , <u>ID</u> , <u>IL</u> , <u>MD</u> , <u>MN</u> , <u>NJ</u> , <u>NY</u> , <u>ND</u> , <u>OR</u> , <u>UT</u> , <u>VT</u> , <u>VA</u> , and <u>WI</u> provision found in non-UI law.								
³ In <u>CO</u> claimant receives 1.5 x benefits due for weeks delayed, thus increasing employer’s experience rate.								
⁴ In <u>IN</u> the employer is assigned the rate for the year in which the violation occurred and the following 3 years. If employer is already paying the highest rate at the time of the violation, or the increase in the contribution rate described in this table is less than 2%, the employer will pay an additional 2% of the employer's taxable wages for the year in which the violation occurred and the following 3 years.								
⁵ In <u>MN</u> and <u>VA</u> benefit offset not possible since individuals committing fraud are ineligible for benefits until they’ve fully repaid the amount owed.								
⁶ In <u>NV</u> , if the OP is > \$1,000 but ≤ \$2,500 the penalty is 25%, if the OP is > \$2,500 the penalty is 50%.								
⁷ In <u>VT</u> , if not prosecuted, assessed 1 penalty week for each week of fraud; however if fraud committed within the past 3 calendar years, and fraud committed again, assessed 2 penalty weeks for each week of fraud. Limited to no more than 26 penalty weeks in any BY.								

DISQUALIFICATION FOR MISPRESENTATION—In addition to assessments and prison time, individuals may be disqualified from benefits. The provisions for disqualification for fraudulent misrepresentation follow no general pattern. In nine states¹ there is a more severe disqualification when the fraudulent act results in payment of benefits. In California, New Hampshire, Oregon, Pennsylvania, and Virginia, it is more severe when the individual is convicted.

In California, any individual convicted of misrepresentation under the penalty provisions is disqualified for 1 year. In Rhode Island, there is no disqualification unless the individual has been convicted of fraud by a court of competent jurisdiction. Illinois does not deny a worker benefits for giving false statements or for failure to disclose information if the previous benefits are being recouped or recovered. On the other hand, in Hawaii, Puerto Rico, Vermont, and the Virgin Islands, an individual is not subject to the administrative disqualification if penal procedures have been undertaken. In Massachusetts, administrative disqualification precludes initiation of penal procedures.

Seventeen states include a statutory limitation on the period within which a disqualification for fraudulent misrepresentation may be imposed (see footnote 4 in Table 6-4). The length of the period is usually 2 years and, in six states, the period runs from the date of the offense to the filing of a claim for benefits. In these states, the disqualification can be imposed only if the individual files a claim for benefits within 2 years of the date of the fraudulent act. In Connecticut and Michigan, the disqualification may be imposed if a claim is filed within 6 years of the benefit year in which the offense occurred. In five states, the disqualification may be imposed only if the determination of fraud is made within 2 or 4 years of the date of the offense.

In many states, disqualification for misrepresentation is, as would be expected, more severe than the ordinary disqualification provisions. In 17 states, the disqualification is for at least a year; in others, it may last longer. The provisions are difficult to compare because some disqualifications start with the date of the fraudulent act, while others begin with the discovery of the act, the determination of fraud, the date on which the individual is notified to repay the sum so received, or the date of conviction by a court. Some begin with the

¹ ID, KY, LA, MD, MI, MT, OH, UT, and VT.

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filing of a first claim, while others are for weeks that would otherwise be compensable. The disqualification provisions are, moreover, complicated by tie-in with recoupment provisions and by retroactive imposition.

As Table 6-4 shows, the cancellation of wage credits in many states means the denial of benefits for the current benefit year or longer. A disqualification for a year means that wage credits will have expired, in whole or in part, depending on the end of the benefit year and the amount of wage credits accumulated for another benefit year before the fraudulent act. Thus, future benefits are reduced as if there had been a provision for cancellation. In other states with discretionary provisions or shorter disqualification periods, the same result will occur for some individuals. Altogether, misrepresentation involves cancellation of wage credits or reduction of benefit rights in 34 states and may involve reduction of benefit rights for individuals in 15 more states. The disqualification for fraudulent misrepresentation usually expires after a second benefit year, but, in California, it may be imposed within 3 years after the determination is mailed or served; in Ohio, within 4 years after a finding of fraud; and in Arkansas and Washington, within 2 years of such finding. In many states, as noted in the table below, the agency may deny benefits until the benefits obtained through fraud are repaid. In Virginia, the denial is limited to 5 years. In Colorado, benefits are denied if an individual's court trial for commission of a fraudulent act is prevented by the inability of the court to establish its jurisdiction over the individual. Such ineligibility begins with the discovery of the fraudulent act and continues until such time as the individual makes himself available to the court for trial. In Maryland, the time limit for repayment is 5 years following the date of the offense, or 1 year after the year disqualification period, whichever occurs later. After this period, an individual may qualify for benefits against which any part of the repayment due may be offset. In Louisiana, repayment is limited to the 5-year period following a determination of fraud—a period which may be lengthened under specified circumstances.

TABLE 6-4: DISQUALIFICATION FOR FRAUDULENT MISREPRESENTATION

State	Duration of Disqualification	Benefits Reduced or Canceled
AL	52 weeks for 1 st offense and 104 weeks for 2 nd and subsequent	4 x WBA to maximum benefit amount payable in BY ¹
AK	W + 6 – 52	X ²
AZ	1 - 52 weeks ^{3, 4}	X ²
AR	W + 13; additional 3 weeks for each week of fraud ^{3, 4}	50% of remaining entitlement
CA	If convicted, 52 weeks ^{3, 4, 5}	X ²
CO	X ⁶	X ⁶
CT	1 – 39 weeks for which otherwise eligible ^{3, 4}	Mandatory equal reduction
DE	W + 51	X ⁷
DC	All or part of remainder of BY and for 1 year commencing with the end of such BY ²	X ⁷
FL	1 - 52 weeks ³ and until fraudulent OPs are repaid in full	X ²
GA	Remainder of current quarter and next 4 quarters ^{4, 8}	Mandatory equal reduction ⁴
HI	24 months ^{3, 4}	X ⁷
ID	W + 52; amounts fraudulently received must be repaid plus penalty and interest ^{3, 4}	X ⁷
IL	W + 6 weeks; if additional offenses, up to 26 week. ^{3, 9}	
IN	Up to current BY	All wage credits prior to act canceled
IA	Up to current BY ³	Mandatory equal reduction
KS	1 year after act committed or 1 st day following last week for which benefits were paid, whichever is later	X ⁷

OVERPAYMENTS

TABLE 6-4: DISQUALIFICATION FOR FRAUDULENT MISREPRESENTATION

State	Duration of Disqualification	Benefits Reduced or Canceled
KY	Unreported earnings: W + additional weeks based on amount of unreported earnings (up to 52 W); nondisclosure of info other than wages: W + 26 ³	X ²
LA	W + 52; if fraudulent benefits received ³	X ⁷
ME	6 months – 1 year ³ ; for 3 rd occurrence disqualification determined by the Commissioner	
MD	1 year and until benefits, with interest, repaid ^{3,4}	X ⁷
MA	A compensable week for each week overpaid	25% of WBA
MI	Current BY and until such amounts are repaid or withheld ^{3,4}	All base period wages canceled
MN	13 – 104 weeks	X ²
MS	W + up to 52 weeks ³	X
MO	Up to current benefit year + ¹⁰	All or part of wage credits prior to act canceled
MT	1 – 52 weeks and until benefits repaid ³	
NE	Up to current benefit year + ¹⁰	All or part of wage credits prior to act canceled
NV	W + 1 – 52 or until sum equal to all benefits received or paid plus any interest, penalties or costs related to that sum is repaid, whichever is longer; period of disqualification will be fixed according to the circumstances in each case ¹¹	X ⁷
NH	4 – 52 weeks; if convicted 1 year after conviction; and until benefits repaid or withheld ^{1,3}	Mandatory equal reduction
NJ	1 year ³	X ²
NM	Not more than 52 weeks ³	X ⁷
NY	4 – 80 days for which otherwise eligible ^{3,4}	Mandatory equal reduction
NC	52 weeks ³	X ⁷
ND	W + 51	X ⁷
OH	Amount of fraudulent benefits must be repaid and must be held ineligible for 2 otherwise valid weekly claims for each weekly claim canceled	X ¹²
OK	W + 51 ^{3,4}	BP or BY may not be established during period
OR	52 weeks; if convicted, until benefits repaid or withheld ^{3,4}	If convicted, all wage credits prior to conviction canceled ¹⁰
PA	2 weeks plus 1 week for each week of fraud or, if convicted of illegal receipt of benefits, 1 year after conviction ^{1,4,13}	X ⁷
PR	W + 51 provided that criminal procedures have not been filed against individual ^{3,4}	
RI	If convicted, 1 year after conviction	X ⁷
SC	W + 10 – 52 ³	X ²
SD	1 – 52 weeks ³	X ²
TN	W + 4 – 52 ³	X ²
TX	Current BY	Benefits or remainder of BY canceled
UT	W + 13 – 49; and until benefits received fraudulently are repaid ¹⁴	X ⁷
VT	If not prosecuted, until amount of fraudulent benefits are repaid or withheld + 1 – 26 weeks ^{3,4}	X ²

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TABLE 6-4: DISQUALIFICATION FOR FRAUDULENT MISREPRESENTATION

State	Duration of Disqualification	Benefits Reduced or Canceled
VA	W + 52 and until benefits repaid; if convicted, 1 year after conviction ^{3,4}	X ²
VI	W + 51 ^{3,4}	X ²
WA	Week of fraudulent act + 26 weeks following filing of 1 st claim after determination of fraud ⁴	X ⁷
WV	W + 52 ³	
WI	Each week of fraud	1 – 4 x WBA ^{1,15}
WY	W + 51 ³	

GENERAL NOTE: W means week in which act occurs plus the indicated number of consecutive weeks following.

¹ In AL, NH, PA, and WI provision applicable at discretion of agency.

² In AK, AZ, CA, DC, FL, KY, MN, NJ, SC, SD, TN, VT, VA, and VI before disqualification period ends, wage credits may have expired in whole or in part depending on disqualification imposed and/or end of BY.

³ In HI, ID, IL, IA, LA, MD, MT, NH, NM, OK, PR, SC, VA, and WV period of disqualification is measured from date of determination of fraud in; In ME, and NC mailing date of determination; in VT date of redetermination of fraud; in AR and AZ date of claim or registration for work; in CA week determination is mailed or served, or any subsequent week for which individual is first otherwise eligible for benefits, or if convicted, week in which criminal complaint is filed; in CT, FL, NY, SD, and TN waiting or compensable week after its discovery; In MS 1st OP results in 6 week disqualification for each fraudulent week, 2nd or subsequent OP results in 12 week disqualification for each fraudulent week; in OR as determined by agency; in KY, MI, and NJ date of discovery of fraud; in VI determination mailed or delivered; in WY, week of fraud or week following the date notice is mailed.

⁴ In AZ, HI, NY, OK, PR, and VI provision applicable only if claim filed 2 years after offense; in PA within 4-year period following the expiration of the claim in which the fraud occurred; in WA within 2 years following determination of fraud; in CA if claim filed within 3 years following date determination was mailed or served; in MD, and VA if determination of fraud is made within 3 years after offense; in VT 3 years after date of decision; in OR 5 years after the date of the decision; in AR 5 years from date of delivery or mailing of determination of disqualification; in GA if determination of fraud is made within 4 years of offense; in CT, if claim is filed within 6 years of BY during which offense occurred; in ID within 8 years of final determination establishing liability to repay; in MI reduction only occurs as to a benefit year filed within 2 years after the cancellation of benefit entitlement due to fraud in an existing benefit year; however, in OR, overpayments will not be canceled within 3 years if the debt is being recovered by payments or deductions which were received within the last 3 months nor if repayment of the overpayment is required because of a fraud conviction.

⁵ Disqualification may be served concurrently with a disqualification imposed for any of the 3 major causes if individual registers for work for such week as required under latter disqualifications; also disqualification is 2 – 15 weeks if not paid benefits or 5 – 15 weeks if benefits received. The Director may extend the period of ineligibility for an additional period not to exceed 8 additional weeks for successive disqualification.

⁶ See Sec. 455.03 of state law for explanation of period of disqualification.

⁷ In DE, DC, HI, ID, KS, LA, MD, NV, NM, NC, ND, PA, RI, UT, and WA before disqualification period ends, wage credits will have expired in whole or in part, depending on end of BY.

⁸ If a false representation or failure to disclose a material fact is made more than once in a BY, or if benefits received exceed \$4,000, the individual shall upon conviction be guilty of a felony and upon conviction shall be punished by imprisonment of 1 to 5 years. These penalties also apply to fictitious employers who receive benefits to which not entitled.

⁹ Plus 2 additional weeks of disqualification for each subsequent offense.

¹⁰ In MO, NE, and OR cancellation of all wage credits means that period of disqualification will extend into 2nd BY, depending on amount of wage credits for such year accumulated before fraudulent claim.

¹¹ May be waived for good cause, or if the individual adheres to an authorized repayment schedule designed to repay benefits, penalties, and interest within 18 months.

¹² Determination of fraud may be issued only if within 4 years of the BY beginning date. Two penalty weeks are served for each week in which fraud occurred.

¹³ Duration of disqualification lasts until benefits withheld or repaid if finding of fault on the part of the individual has been made.

¹⁴ 13 weeks for first week of fraud + 6 weeks for each additional week. No benefits shall be paid until OP repaid and as a civil penalty an amount equal to the benefits fraudulently received.

¹⁵ Compensable week within 6-year period following date of determination of fraud for concealing earnings or refusal of job offer.

OVERPAYMENTS

WRITE-OFF OF OVERPAYMENTS

After exhausting its options to recover overpayments, most states will permit the UI agency to write off (that is, cancel as uncollectible) certain overpayments. The criteria for writing off overpayments vary. Usually, it depends on how long the overpayment has been outstanding. However, most states have established additional criteria. The following table provides information on states' write-off provisions.

TABLE 6-5: WRITE-OFF OF OVERPAYMENTS				
	Nonfraud		Fraud	
State	Age Requirement	Other Criteria	Age Requirement	Other Criteria
AL ¹	6 years from final decision	Bankruptcy or death	6 years from final decision	Death
AK ²	2 years from last payment	Death	2 years from last payment	Death
AZ ¹	5 years from final decision	N/A	None	Bankruptcy or death
AR	None	Death	None	Death
CA ^{1,2}	6 years and 1 month from OP mail date. If judgment, 10 years and 1 month from judgment	Immediately if OP ≤ \$9.99 and no payment activity for 6 months	6 years and 1 month from OP mail date; if judgment, 10 years and 1 month from judgment	Immediately if OP ≤ \$9.99 and no payment activity for 6 months
CO ^{1,2}	5 years from determination that debt is uncollectible	Administratively impracticable to collect	7 years from determination that debt is uncollectible	Administratively impracticable to collect
DE ²	3 years	OP debt is wholly or partly uncollectible	3 years	OP debt is wholly or partly uncollectible
DC ¹	3 years after BY ending date	No claim with current BY and balance, and no repayment within 180 days	3 years after BY ending date	No claim with current BY and balance, no repayment within 180 days, case referred for prosecution
FL ¹	2 years from establishment	Bankruptcy or death	5 years from establishment	Bankruptcy or death
GA ¹	3 years older than 1 st day of current quarter	N/A	4 years older than 1 st day of current quarter and last transaction is 1 quarter old	N/A
ID ²	5 years from final decision	Account activity	8 years from final decision	Account activity
IL ^{2,3}	None	If uncollectible	None	Legally uncollectible
IN ²	3 years from BYB of claim; civil judgment extends by 10 years (can extend again)	N/A	6 years from BYB of claim; civil judgment extends by 10 years (can extend again)	N/A
IA ^{2,3}	10 years from last activity	N/A	10 years from last activity	N/A
KS ¹	5 years from last transaction	N/A	10 years from last transaction	N/A
KY ²	5 years from last day of benefit year	N/A	10 years from last day of BY	Not if individual has been prosecuted for offense
LA ²	3 years from BYE of overpaid claim and from last acknowledgement of debt or penalty assessment	Bankruptcy	5 years from determination date and from last acknowledgement of debt or penalty assessment	Bankruptcy
ME ¹	6 years from establishment	Below \$25	6 years from establishment	Below \$25
MD ¹	5 years from establishment	N/A	None	N/A
MA ^{1,2}	5 years from last claim for benefits	No further contact with individual	5 years from last claim for benefits	No further contact with individual; after review and approval of Commissioner
MI ¹	3 years from determination date unless civil action filed, individual made false statement, or determination requires restitution; 10 years if judgment	N/A	6 years from determination date unless civil action filed, individual made false statement, or determination requires restitution. 10 years if judgment	N/A
MN ²	6 years from date determined	Bankruptcy or death	10 years from date determined	N/A
MS ²	5 years from last day of week overpaid	N/A	5 years from last day of week overpaid	N/A

OVERPAYMENTS

TABLE 6-5: WRITE-OFF OF OVERPAYMENTS

	Nonfraud		Fraud	
State	Age Requirement	Other Criteria	Age Requirement	Other Criteria
MO ²	5 years from establishment with no activity	Must be uncollectible	5 years from establishment with no activity	Must be uncollectible
MT ²	5 years from establishment. 10 years with lien	Bankruptcy or death	5 years from establishment. 10 years with lien	N/A
NE ^{1, 3}	None	Bankruptcy, death, incarcerated 5+ years, or can't be located and OP 10+ years	None	Bankruptcy, death, incarcerated 5+ years or can't be located and OP 10+ years
NV	3 years from establishment	N/A	3 years from establishment	N/A
NH ^{2, 3}	None	If in best interest of state	None	If in best interest of state
NJ ²	6 months to 1 year from date of delinquency	Depends on date of last payment, proof and date of individual contact	6 months to 1 year from date of delinquency	Depends on date of last payment, proof and date of individual contact
NY ¹	6 years from latest action	N/A	6 years from latest action on OP; if judgment, 20 years from date judgment filed	N/A
NC ²	No	Death	No	Death
ND ¹	None	Bankruptcy or death inability to locate client, and current state of employment	None	N/A
OH ²	3 years from final decision	N/A	6 years from final decision	N/A
OK ²	1 year from end of BY current when OP established	Administrative error only	None	N/A
OR ²	3 years from final decision. If nonfault OP, after 1 year	< 1/2 state max WBA or uncollectible. Also, must be no payments within last 3 months	5 years from final decision	< 1/2 state max WBA or uncollectible; also, must be no payments within last 3 months; not if conviction
PA ²	If nonfault, 4 years from application for benefits date; 7 years if fault	Not written off if lien	10 years from application for benefits date	Not written off if lien
PR ²	5 years from establishment	Bankruptcy or death	5 years from establishment	Bankruptcy or death
RI ¹	5 years from detection and no refund activity	Bankruptcy, death or any OP ≤ \$100 system allows reactivation of OP if individual files a claim and/or starts to repay	5 years from detection and no refund activity	Bankruptcy, death or any OP ≤ \$100; system allows reactivation of OP if individual files a claim and/or starts to repay
SC ²	5 years from establishment	N/A	6 years from establishment	N/A
SD ²	None	Bankruptcy or death and 10 years or more	None	Bankruptcy or death and 10 years or more
TN ²	6 years from establishment	Yes	6 years from establishment	N/A
UT ³	Fault OPs subject to accounting write-off after 3 years if deemed uncollectible; mandatory write-off as to offset at 8 years	Nonfault OPs	Accounting write-off after 3 years if deemed uncollectible; no write-off as to benefit eligibility	N/A
VT ²	5 years from determination date If judgment order, 8 years from judgment date	Bankruptcy or death	5 years from determination date; if judgment order, 8 years from judgment date	Bankruptcy or death
VA ²	7 years from determination date if no repayment activity in last 12 months	Bankruptcy or death	7 years from determination date if no repayment activity in last 12 months	Bankruptcy or death
VI ¹	2 years from final decision	Deceased w/o assets, incarcerated for a long time, permanently disabled or physically unable to work and w/o assets, is no longer in VI, or cannot be located	None	N/A

OVERPAYMENTS

TABLE 6-5: WRITE-OFF OF OVERPAYMENTS

	Nonfraud		Fraud	
State	Age Requirement	Other Criteria	Age Requirement	Other Criteria
WA	None	No cost-effective means of collecting	None	No cost-effective means of collecting
WV ²	5 years from last day of week overpaid	Bankruptcy or death	10 years from last day of week overpaid	Bankruptcy or death
WI ¹	7 years from decision	Bankruptcy or death with no assets; no collection activity in 3 years; no assets or wages found	7 years from decision	Bankruptcy or death with no assets; no collection activity in 3 years; no assets or wages found
WY ²	8 years from effective date of claim; can write off any time if deceased with no assets or insolvent with no assets	Cannot locate, totally unable to work, and covered wages < ½ of average state weekly wage	None	Cannot locate, totally unable to work, and covered wages < ½ of average state weekly wage

KEY: N/A = Not applicable

GENERAL NOTE: For additional information, consult state law, regulations, and policy. CT, HI, NM, TX, and WA are not included in this table since they do not write off overpayments.

¹ Write-off provisions found in policy.

² Write-off provisions found in law.

³ Write-off provisions found in regulation.